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Fuisz Pharma LLC, Richard C. Fuisz,
and Joseph M. Fuisz

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

THERANOS, INC. and ELIZABETH
HOLMES,

Plaintiffs,

v.

FUISZ PHARMA LLC, RICHARD C.
FUISZ, and JOSEPH M. FUISZ,

Defendants.

Case No. CV 11-05236 PSG

**DECLARATION OF JENNIFER ISHIMOTO
IN SUPPORT OF FUISZ DEFENDANTS'
SUMMARY JUDGMENT MOTION**

Date: September 3, 2013

Time: 10:00 a.m.

Courtroom: 5 (San Jose)

Judge: Hon. Paul S. Grewal

Date Comp. Filed: October 26, 2011

I Jennifer Ishimoto, declare as follows:

1. I am an attorney with the law firm of Banie & Ishimoto LLP, counsel of record for Defendants in the above-captioned matter. I submit this declaration based on personal knowledge and following a reasonable investigation. If called upon as a witness, I could and would competently testify to the truth of each statement herein.
2. Attached as Exhibit A is a true and correct copy of U.S. Patent No. 7,824,612.

3. Attached as Exhibit B is a true and correct copy of Plaintiffs' Deposition Exhibit 86, as used during the deposition of Richard Fuisz.
4. Attached as Exhibit C is a true and correct copy of the CV of Joseph Fuisz, produced in this case as FUISZ001628-1630.
5. Attached as Exhibit D is a true and correct copy of excerpts from the deposition of Richard Fuisz.
6. Attached as Exhibit E is a true and correct copy of excerpts from the depositions of Joseph Fuisz.
7. Attached as Exhibit F is a true and correct copy of a document produced by third party McDermott, Will & Emery LLP in native format as MWE_0004088 and labeled as Confidential under the Protective Order.
8. Attached as Exhibit G is a true and correct copy of a letter sent from Richard Fuisz to members of the board of directors at Theranos on June 7, 2012, along with accompanying attachments. These documents were produced in this litigation as FUISZ004318-4420.
9. Attached as Exhibit H is a true and correct copy of excerpts from the deposition of Brian McCauley.
10. Attached as Exhibit I is a true and correct copy of a declaration from Brian B. McCauley.
11. Attached as Exhibit J is a true and correct copy of Defendants' Deposition Exhibit 28, as used in the deposition of Brian McCauley. This document was produced by third-party McDermott, Will & Emery LLP in native format as MWE000_4089 with a "Confidential" designation.
12. Attached as Exhibit K is a true and correct copy of excerpts from the deposition of Thomas Haag.
13. Attached as Exhibit L is a true and correct copy of excerpts from the deposition of D. Bommi Bommannan.

- 1 14. Attached as Exhibit M is a true and correct copy of a declaration by John Fuisz,
2 dated January 12, 2012.
- 3 15. Attached as Exhibit N is a true and correct copy of excerpts from the deposition of
4 John Fuisz.
- 5 16. Attached as Exhibit O is a true and correct copy of excerpts from the deposition of
6 Alan Rutkoff.
- 7 17. Attached as Exhibit P is a true and correct copy of a declaration from Charles
8 Work dated July 22, 2013.
- 9 18. Attached as Exhibit Q is a true and correct copy of a declaration from Alan
10 Schiavelli dated January 13, 2012.
- 11 19. Attached as Exhibit R is a true and correct copy of two declarations from Kenneth
12 Cage – one dated January 6, 2012 and a supplemental declaration dated July 23,
13 2013.
- 14 20. Attached as Exhibit S is a true and correct copy of excerpts from the deposition of
15 Christian Holmes IV.
- 16 21. Attached as Exhibit T is a true and correct copy of excerpts from the deposition of
17 Noel Holmes.
- 18 22. Attached as Exhibit U is a true and correct copy of excerpts from the deposition of
19 Elizabeth Holmes.
- 20 23. Attached as Exhibit V is a true and correct copy of a document produced by
21 McDermott, Will & Emery LLP, bearing bates numbers MWE_0000804-806 and
22 designated as Confidential under the Protective Order.
- 23 24. Attached as Exhibit W is a true and correct copy of a document produced by
24 McDermott, Will & Emery LLP, bearing bates numbers MWE_0000960-961 and
25 designated as Confidential under the Protective Order.
- 26 25. Attached as Exhibit X is a true and correct copy of a document produced by
27 McDermott, Will & Emery LLP, bearing bates numbers MWE_0001671-1672 and

designated as Confidential under the Protective Order.

26. Attached as Exhibit Y is a true and correct copy of a document produced by McDermott, Will & Emery LLP, bearing bates numbers MWE_0002667-2670 and designated as Confidential under the Protective Order.

27. Attached as Exhibit Z is a true and correct copy of a document produced by McDermott, Will & Emery LLP, bearing bates numbers MWE_0004007-4087 and designated as Confidential under the Protective Order.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE' UNITED STATES OF AMERICA AND THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

Dated: July 25, 2013

BANIE & ISHIMOTO LLP

By /s/ Jennifer L. Ishimoto

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